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IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH
AT BILASPUR

Criminal Appeal No. 428/2004

Hemendraraj alias Raja Sahu,
aged 26 years, occupation grocer
Son of ~~Gourishankar~~ ^A Gurijashankar
Resident of Panchsheel Nagar,
Infront of Gurudwara, Charouda
P.S. Bhilai-3 Distt. Durg (C.G.)

Accused is
in jail
under PEE
limited

1736/04

on 26.04.04
Shri. Prakash Mishra...
Advocate

..... **Appellant**
(Accused)

VERSUS

R. to D.R. (J)
State of Chhattisgarh
Through District Magistrate, Durg

..... **Respondents**
(Complainant)

CRIMINAL APPEAL UNDER SECTION 374 OF THE CR.P.C.

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A.F.R.

HIGH COURT OF CHHATTISGARH AT BILASPUR

Criminal Appeal No. 428/2004

Hemendra Raj @ Raja Sahu

Vs.

State of Chhattisgarh.

Criminal Appeal No. 482/2004

Ganesh Soni

Vs.

State of Chhattisgarh

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Post for:

29th-08-2006

Sd/-
Dilip Raosaheb Deshmukh
Judge

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A.F.R.

HIGH COURT OF CHHATTISGARH AT BILASPUR

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Vs.

State of Chhattisgarh

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Present:

Smt. Fouzia Mirza, learned counsel for the appellant Hemendra Raj @ Raja Sahu.

Shri Rajeev Shrivastava, learned counsel for the appellant Ganesh Soni.

Shri Ashish Shukla, learned G.A. for the State.

J U D G M E N T

(Delivered on 29th day of August 2006)

This judgment shall govern Criminal Appeal No.428/2004 by Hemendra Raj @ Raja Sahu and Criminal Appeal No.482/2004 by Ganesh Soni.

2. Both the aforesaid appeals are directed against the judgment dated 12-04-2004 delivered by Shri T.P.Sharma, Special Judge & Additional Sessions Judge, Durg in Special Case No.121/2003. Appellant Hemendra Raj @ Raja was convicted under Sections-365, 366, 342 and 376 of IPC and was sentenced to undergo Rigorous imprisonment for 3 years each under Sections-365, 366 of the IPC

and to rigorous imprisonment for 6 months under Section-342 of IPC and to rigorous imprisonment for 7 years under Section-376 of IPC. Appellant Ganesh Soni was convicted under Sections-365, 366 and 342 of IPC and was also sentenced to undergo rigorous imprisonment for 3 years each for the offences under Section-365, 366 of the IPC and to rigorous imprisonment for 6 months under Section-342 of IPC. The sentences were ordered to run consecutively.

3. The factual matrix in brief is that on 08-08-2003, the prosecutrix, belonging to the Scheduled Tribe, aged about 22 years was going to medical shop to buy medicines at about 8.15 P.M. The appellants came from behind and forcibly abducted her on a scooter and took her to the house of appellant Hemendra Raj in Panchsheel Nagar, Old Bhilai, District-Durg. She was confined inside the room. Appellant Hemendra Raj committed rape twice on the prosecutrix. During investigation, it was revealed that one Shrawan was also present at the house of the appellant Hemendra Raj who alongwith appellant Ganesh stood outside while the prosecutrix was ravished by appellant Hemendra Raj. When the prosecutrix attempted to shout, the appellant Hemendra Raj beat her and pressed her throat. At about 3 A.M., appellant Hemendra Raj took her on a scooter and left her in Budh Vihar, Charoda on the main road and threatened her that if she reported the matter he would kill her. Being under panic, while returning home at 3.30 A.M. she met Aamos Thapa PW-2, Gorkha Chowkidar on way and narrated the incident to him while requesting him to drop her home. Aamos Thapa PW-2 took the prosecutrix to her home in Charoda where she narrated the incident to her anxiously waiting worried mother Smt. Tulsi Singare PW-8 and brother Shri Prakash Singare PW-9. F.I.R. was lodged by the prosecutrix at 10.30 A.M. on 09-08-2003 at Police Station-Bhilai-3 vide Ex.P-5. Sub

Inspector Ashok Joshi PW-6 seized Raj two bed sheets having semen like stains from the bed room of the house of appellant Hemendra Raj, one blue underwear worn by the appellant Hemendra Raj at the time of occurrence having semen like stains and one L.M.L. Scooter bearing Registration No.M.P.-24/E.B./9266 on 09-08-2003 at 07.55 P.M. vide Ex.P-10. One Chocolate coloured Salwar having semen like stains was seized from the prosecutrix vide Ex.P-12 on 09-08-2003 at 09.30 P.M.

4. The prosecutrix was examined by Dr.Smt. Pratibha Dani PW-3 on 09-08-2003 at 7 P.M. who found no evidence of any injury over her body or her private parts. The vagina admitted one finger easily. Uterus was normal in size. Her last menstrual period had commenced on 16th of July. Two vaginal slides were prepared, sealed and handed over to Constable Santosh Singh for pathological examination. No definite opinion could be given about recent sexual intercourse with the prosecutrix. The vaginal slides were seized vide Ex.P-2 from Constable Santosh Singh. Appellant Hemendra Raj @ Raja was medically examined by Dr. S.N.Choubey PW-4 on 11-08-2003 at 11.25 A.M. He found no external injury over his body and genitals. Smegma was present under prepuse and over the glans penis. It was opined that the appellant Hemendra Raj was capable of performing sexual intercourse though presence of smegma suggested that sexual intercourse was not performed within a period of 48 hours prior to medical examination.

5. Blue coloured underwear and two bed sheet were examined by Dr. S.N. Choubey PW-4 while Dr. Smt Pratibha Dani PW-3 examined the Salwar and encircled the stains present on these articles and advised chemical examination for confirmation of semen. A certificate

Ex.P-15 showing that the prosecutrix belonging to the Scheduled Tribe, was also seized during investigation. The aforesaid articles were sent for chemical analysis to the F.S.L. along with the memo Ex.P-26 of the Senior Superintendent of Police, Durg dated 25-08-2003. Vide report Ex.P-19 dated 27-01-2004, presence of semen and human spermatozoa was confirmed on both bed sheets, underwear of the appellant as also on the Salwar and vaginal slides of the prosecutrix. An ossification test for determination of the age of the prosecutrix was conducted. Dr. A.K.Sahu PW-12 opined that she was aged above 19 years. After completion of investigation, appellants Hemendra Raj & Ganesh were prosecuted for the offences under Section-376(2)(G), 365, 342, 366, 506-B of the IPC and 3 (2)(5) of Scheduled Caste and Scheduled Tribes, (Prevention of Atrocities) Act, 1989.

6. Both the appellants abjured the guilt. Appellant Hemendra Raj in his examination under Section-313 of Cr.P.C. stated that he had never committed sexual intercourse with the prosecutrix who had falsely implicated him. Appellant Ganesh also pleaded innocence and false implication by the prosecutrix. Mukesh Dongre D.W.-1 & Jaggu @ Jageshwar D.W.-2 were examined by the defence who stated that on the night of 08th of August, 2003 at about 8.30 P.M., the prosecutrix was seen in front of the Kirana Shop of the appellant Hemendra Raj @ Raja compelling him to marry her failing which she threatened to falsely implicate him. It was also stated that the prosecutrix was shouting and abusing the appellant Hemendra Raj who repeatedly said that his parents were not at home. Upon being advised at about 9.15 P.M. the prosecutrix went away while abusing the appellant Hemendra Raj Appellant thereafter closed the shop.

7. Smt. Fouzia Mirza, learned counsel for the appellant Hemendra Raj argued that the testimony of the prosecutrix PW-7 in para-3 & 4 left no room for any doubt that sexual intercourse if any, committed by the appellant Hemendra Raj was wholly with her consent as she neither raised any alarm while she was being brought on a scooter by the appellants nor while she was being ravished. Her testimony that after committing sexual intercourse with her, appellant Hemendra Raj went outside the house and appellant and Shrawan were laughing and after half an hour appellant Hemendra Raj again entered the room and committed rape on her, clearly goes to show that she neither resisted during the sexual intercourse nor shouted for help while she was being ravished or while she was alone after rape on her for the first time. It was also contended that medical evidence of Dr. Mrs. Pratibha Dani PW-3 that no definite opinion about recent sexual intercourse could be given and no external or internal injury was found on the prosecutrix also rendered the testimony of the prosecutrix doubtful. Reliance was placed on Pratap Mishra and others Vs. State of Orissa reported in AIR-1977-S.C-1307 while contending that due to absence of any injury on the prosecutrix clearly showed that she did not put up any resistance to the alleged sexual act committed by the accused-appellant Hemendra Raj and the only irresistible inference to be drawn therefrom was that she was a consenting party. It was contended that the testimony of the defence witnesses clearly revealed that since the appellant Hemendra Raj refused to marry the prosecutrix, she falsely implicated him. Several omissions in the first information report lodged by the prosecutrix were pointed out while referring to the testimony of the prosecutrix in para-3 & 4. It was also contended that her testimony in para-9 & 10 left no room for any

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doubt that the locality from which the prosecutrix was alleged to have been abducted is a busy locality having thorough fare and the fact that the prosecutrix did not raise any alarm while she was being carried on a scooter was also indicative of the fact that she voluntarily went with the appellants. Lastly, it was contended that Aamos Thapa PW-2, a vital link in the prosecution case did not support the prosecution story. On these premises, it was urged that conviction and sentence awarded by the learned trial Judge to appellant Hemendra Raj was liable to be set aside.

8. Shri Rajiv Shrivastava, learned counsel for the appellant Ganesh emphatically argued that appellant Ganesh was falsely implicated. Referring to the testimony of the prosecutrix in para-1, it was urged that none of the facts emerging in the testimony of the prosecutrix in para 1 against appellant Ganesh were mentioned by her in the F.I.R. Ex.P-5. It was argued that appellant Ganesh was not even known to the prosecutrix and had been falsely implicated by her since he was friendly with the appellant Hemendra Raj.

9. On the other hand, Shri Ashish Shukla, learned Govt. Advocate argued that the testimony of the prosecutrix regarding her abduction, wrongful confinement by the appellants and forcible sexual intercourse committed by the appellant Hemendra Raj was duly corroborated by the report of F.S.L. and also by the testimony of Smt. Tulsi Singare PW-8 and Shri Prakash Singare PW-9 to whom the prosecutrix had narrated the incident on returning home with Aamos Thapa PW-2 the Gorkha Chowkidar. It was urged that the evidence of above witnesses as also the facts mentioned in the F.I.R. clearly goes to show that Aamos Thapa PW-2 had given false evidence. Reliance was placed on

Ranjit Hazarika Vs. State of Assam reported in 1998-SCC (Criminal)-1725 and State of Punjab Vs. Gurmit Singh and others reported in 1996-Volume-2-SCC-384 and Vishnu Alias Undrya Vs. State of Maharashtra reported in (2006) 1-SCC (Criminal) 217 while contending that the testimony of the prosecutrix was wholly reliable since she would not have falsely implicated the appellants had she voluntarily accompanied them or consented to the sexual intercourse committed by the appellant Hemendra Raj. The prosecutrix did not bear any grudge or had any motive to falsely implicate the appellants. The testimony of defence witnesses was merely an afterthought since the prosecutrix was not confronted with the presence of defence witnesses. No suggestion was put to her in cross examination regarding the facts deposed by the defence witnesses. Lastly, it was contended that absence of injuries on the prosecutrix was wholly explained by her since the appellant Hemendra Raj had committed sexual intercourse with her on the bed inside his house.

10. Having considered rival submissions, I have perused the record of Special Case No.121/2003 with utmost circumspection. The law relating to appreciation of evidence of the prosecutrix is now well settled. In State of Punjab Vs. Gurmit Singh (Supra), the Apex Court observed as under-

" The Courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to

throw out an otherwise reliable prosecution case. The inherent bashfulness of the females and the tendency to conceal outrage of sexual aggression are factors which the courts should not overlook. The testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. Why should the evidence of a girl or a woman who complains of rape or sexual molestation be viewed with doubt, disbelief or suspicion? The court while appreciating the evidence of a prosecutrix may look for some assurance of her statement to satisfy its judicial conscience, since she is a witness who is interested in the outcome of the charge levelled by her, but there is no requirement of law to insist upon corroboration of her statement to base conviction of an accused. The evidence of a victim of sexual assault stands almost at par with the evidence of an injured witness and to an extent is even more reliable. Just as a witness who has sustained some injury in the occurrence, which is not found to be self-inflicted, is considered to be a good witness in the sense that he is least likely to shield the real culprit, the evidence of a victim of a sexual offence is entitled to great weight, absence of corroboration notwithstanding. Corroborative evidence is not an imperative component of judicial credence in every case of rape. Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. It must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice. Inferences have to be drawn from a given set of facts and circumstances with realistic diversity and not dead uniformity least that type of rigidity in the shape of rule of law is introduced through a new form of testimonial tyranny making justice a casualty. Courts cannot cling to a fossil formula and insist upon corroboration even if, taken as a whole, the case spoken of by the victim of sex crime strikes the judicial mind as probable."

11. In *Ranjit Hazarika Vs. State of Assam* reported in 1998-
Supreme Court Cases (Criminal) 1725 (Supra), the apex Court
referred to *Gurumit Singh* (supra) while holding that if the evidence
of the prosecutrix inspires confidence, her testimony cannot be
rejected merely on the ground of absence of corroboration by medical
opinion. It was held that since her testimony was amply corroborated
by her father and mother to whom she had immediately informed
about the occurrence conviction of the appellant under Section-376
of IPC was well merited.

12. In *Vishnu @ Undrya Vs. State of Maharashtra* reported in
2006) 1 SCC (Cri.) 217, it was held by the Apex Court that a
medical witness called in as an expert to assist the Court is not a
witness of fact and the evidence given by the medical officer is really
of an advisory character given on the basis of symptoms found on
examination. The medical opinion was merely to assist the Court and
was of an advisory character and not binding on the witness of fact.
It was held that since the testimony of the prosecutrix was natural,
inspired confidence, merited acceptance and was also corroborated by
the father and mother of the prosecutrix, conviction of the appellant
under Section-376 of the IPC was well merited.

13. In the case of *Vishnu @ Undray* (Supra), the Apex Court
observed as under:

"The statement of the prosecutrix, in our view, is quite
natural, inspires confidence and merits acceptance. In the
traditional non-permissive bounds of society of India, no girl
or woman of self-respect and dignity would depose falsely,
implicating somebody of ravishing her chastity by sacrificing
and jeopardizing her future prospect of getting married with

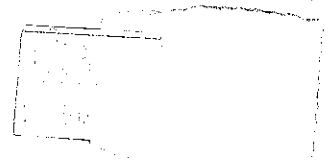
a suitable match. Not only would she be sacrificing her future prospect of getting married and having family life, but also would invite the wrath of being ostracized and cast out from the society she belongs to and also from her family circle. From the statement of the prosecutrix, it is revealed that the accused induced her to a hotel by creating an impression that his wife was admitted in the hospital. On the pretext of going to Nanawati Hospital, he took her to a hotel, took her inside a room, closed the door of the room, threatened her to finish her if she shouted and then forcibly ravished her sexually. In our view, a clear case of rape, as defined under Section-375 clause thirdly IPC has been established against the accused. It is now a well settled principle of law that conviction can be sustained on the sole testimony of the prosecutrix, if it inspires confidence. "

14. Scanning the evidence of the prosecutrix on the above touchstone. I find that her testimony that appellant Ganesh gagged her mouth and forcibly seated her on the scooter driven by the appellant Hemendra Raj and both the appellants took her to the house of appellant Hemendra Raj is wholly worthy of credence. It is true that the prosecutrix did not narrate in the F.I.R. that the appellant Ganesh had pulled her after holding her hand, had forcibly seated her on the scooter, had gagged her mouth and pressed both her feet with his legs but it is well settled that first information report is not an encyclopedia of the entire facts constituting an offence. The prosecutrix did mention in the F.I.R. Ex.P-5 that she was forcibly taken by the appellants on the scooter to Panchsheel Nagar to the house of appellant Hemdendra Raj where she was confined in the room. Considering the amount of mental trauma undergone by the prosecutrix and amount of shock and insult, it could not be expected of her to divulge each and every overt act of the appellants in the F.I.R. The same logic applies to para-3 & 4 of the testimony of the prosecutrix in which she has given a detailed description about the

manner in which appellant Hemendra Raj satisfied his lust while committing rape on her after undressing her and thereafter repeated the sexual act again after sometime. In the F.I.R., the prosecutrix had clearly mentioned that the appellant Raja had committed rape on her twice. She made no effort to falsely implicate appellant Ganesh in sexual assault on her either in the F.I.R. or in her testimony. However, her testimony clearly shows that while she was under confinement and being ravished by Hemendra Raj, the appellant Ganesh was present outside. It was he who at about 3 A.M. asked Hemendra Raj to leave the prosecutrix while saying "इसको ठिकाने लगाकर आओ".

15. The argument that the testimony of the prosecutrix was unreliable since she did not resist or raise any alarm while she was being ravished cannot be accepted. The prosecutrix clearly stated in para-3 that while she was being ravished by the appellant Hemendra Raj, she tried to resist but appellant Hemendra Raj beat her and pressed her throat. Her silence during the period while the appellant Hemendra went away after the first sexual act is also well explained since the prosecutrix stated that she was crying at that time while the appellants were loudly laughing outside. One can well imagine the trauma, fear, shock and insult after her privacy having been violated by the appellant Hemendra Raj who along with the appellant Ganesh stood outside the room where she was crying. It cannot be ruled out that the hapless prosecutrix who was under fear and was disturbed emotionally and psychologically, kept crying instead of raising an alarm.

16. In para-7, the prosecutrix has clearly stated that she did not bleed from the vagina which is also explained by the testimony of



Dr. Smt. Pratibha Dani PW-3 that prior to the date of occurrence, the prosecutrix might have had experienced sexual intercourse. It is also to be borne in mind that the prosecutrix was undressed and ravished on the bed inside the house of appellant Hemendra Raj which explains the absence of injury on her. There is no iota of doubt that Aamos Thapa PW-2 had given false evidence before the Court since the prosecutrix in the FIR lodged soon after the occurrence had clearly mentioned that at about 3 A.M. after she was dropped by the appellant Hemendra Raj on a scooter near Budh Vihar, Charoda, she had met the Gorkha Chowkidar and narrated the incident to him. The testimony of Tulsi Singare PW-8 and Prakash Singare PW-9 also corroborates the testimony of the prosecutrix that she returned home at about 3.30 A.M. with one Gorkha Chowkidar and narrated the entire incident to them. The testimony of the prosecutrix is thus wholly corroborated by her mother Smt. Tulsi Singare PW-8 and brother Prakash Singare PW-9 to whom she narrated the incident immediately after returning home at 3 A.M. If the prosecutrix had voluntarily accompanied the appellants on a scooter to the house of the appellant and consented Hemendra Raj to the sexual intercourse committed by the appellant Hemendra, there was no need for her either to complain to her mother and brother immediately thereafter on returning home or to lodge FIR soon thereafter at P.S. Bhilai-3, Durg. If the prosecutrix was a consenting party she would not have done any such thing. The prosecutrix was cross examined by the appellant Ganesh only to show that she did not know him prior to the occurrence. There is no material on record to show that the prosecutrix bore any grudge or had any motive to falsely implicate the appellant Ganesh or Hemendra.

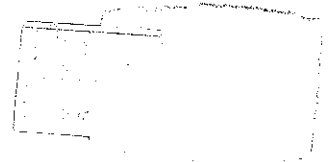
17. The testimony of the defence witnesses is clearly an afterthought. Presence of Mukesh Dongre DW-1 & Jaggu @ Jageshwar DW-2 was not put to the prosecutrix during cross examination. She was not asked if she had gone to kirana shop of appellant Hemendra to compel the appellant Hemendra Raj to marry her. There is no material on record to show that the appellant Hemendra Raj and the prosecutrix were on meeting terms or in love with each other or that the appellant Hemendra Raj had promised to marry her. This has been categorically denied by her in her cross examination. It does not appeal to reason that a young unmarried girl who did not know the appellant Hemendra and had no prior relationship with him (as divulged by her testimony in para-15), would go to the shop of appellant Hemendra at night and compel him to marry her and threaten to falsely implicate him. In a tradition bound non-permissible society, the prosecutrix would not depose falsely to implicate the appellants for abducting her and to implicate the appellant Hemendra Raj for ravishing her chastity by sacrificing and jeopardizing her future prospects of getting married with a suitable match. Relying upon the observations made by the Apex Court in case Vishnu @ Undray (Supra), I am of the considered opinion that statement of the prosecutrix that she was forcibly abducted by the appellants and taken to the house of appellant Hemendra and was forcibly ravished twice by the appellant Hemendra is quite natural and inspires confidence and merits acceptance. It is also pertinent to note that the testimony of defence witnesses Mukesh Dongre DW-1 & Jaggu @ Jageshwar DW-2 clearly goes to show that the parents of the appellant Hemendra were not at home and appellant Hemendra was alone in the house. It appears that taking advantage of the situation the appellant Hemendra to satisfy his sexual lust abducted the

prosecutrix with the active assistance of appellant Ganesh and after confining the prosecutrix inside his house ravished her twice during the night of 08-08-2003.

18. As held in Ranjit Hazarika (Supra), the medical evidence of Doctor Smt. Pratibha Dani PW-3 being merely of an advisory character does not discredit the testimony of the prosecutrix in any manner, specially in view of the fact that the prosecutrix was overpowered by the appellant Hemendra and Ganesh while being abducted and was ravished by the appellant Hemendra Raj under threats, on the double bed in his house.

19. Sub Inspector Ashok Joshi PW-6, Officer-in-charge of the Police Station-Bhilai-3 has proved the seizure of two bed sheets and the underwear of the appellant Hemendra vide Ex.P-10 and the seizure of the Salwar of the prosecutrix vide Ex.P-12 as also the seizure of vaginal slides of the prosecutrix vide Ex.P-2. The testimony of the Dr.Smt. Pratibha Dani clearly shows that vaginal slide was prepared and sealed by her on 09-08-2003 itself. The report of FSL leaves no room for any doubt that the bed sheet, underwear of the appellant, Salwar of the prosecutrix and her vaginal slides were found to contain semen and human spermatozoa for which no explanation is forthcoming from the defence. This is another circumstance which wholly corroborates the testimony of the prosecutrix.

20. Having thus considered the evidence led by the prosecution in its entirety, I am of the considered opinion that the testimony of the prosecutrix is corroborated not only by her mother Smt. Tulsi Singare PW-8 and her brother Shri Prakash Singare PW-9 but also by the



report of FSL. Absence of injury on her person is also explained. Prompt FIR was lodged by her naming both the appellants. Thus evidence of the prosecutrix inspires confidence. There is no cogent material on record to show why she would falsely implicate the appellants. I am unable to agree with the argument of learned counsel for the appellants that in the absence of corroboration of statement of the prosecutrix from medical opinion, conviction of the appellant is bad. As held in Vishnu @ Undray (Supra) the court cannot cling to a fossil formula and insist upon corroboration even if, taken as whole, the case spoken of by the victim of sex crime strikes the judicial mind as probable. There is absolutely no reason why the prosecutrix would falsely implicate the appellants by sacrificing and jeopardizing her future prospect of getting married with a suitable match and invite the wrath of being ostracized and cast out from the society she belongs to and also from her family circle.

21. In the facts and circumstances mentioned above, conviction of the appellant Hemendra Raj @ Raja under Sections-365, 366, 342 and 376 of IPC and appellant Ganesh Soni under Sections-365, 366 and 342 of IPC and the sentences awarded thereunder by the learned trial Judge are well merited and do not call for any interference. Although, the learned trial Judge in para-17 of the impugned judgment concluded that appellant Hemendra Raj @ Raja committed rape on the prosecutrix twice yet the appellant Hemendra Raj @ Raja was sentenced only for one offence under Section-376 of IPC. However, since no appeal has been preferred by the State, nothing more needs to be said.

22. In the result, criminal appeal No. 428/2004 and criminal appeal No. 482/2004 being devoid of merit are dismissed. Appellant Ganesh

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shall surrender before the Registry of this Court at 11 A.M. on 11-09-2006 for being sent to Jail for undergoing sentence. If the appellant Ganesh fails to surrender as ordered, the registry shall seek further orders from this Court.

Sd/-
Dilip Raosaheb Deshmukh
Judge